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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,661	02/23/2004	N. David Crow	BIT 203-01	2676
7590	10/18/2006		EXAMINER	
Christopher A. Wiklof 3531 99th St. SE Everett, WA 98208			LEWIS, RALPH A	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/785,661	CROW, N. DAVID
	Examiner Ralph A. Lewis	Art Unit 3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 27 July 2006.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-5,7-11,13-24 and 28-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-11,13-15 and 28-40 is/are allowed.
- 6) Claim(s) 16-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

### **Objection to the Drawings**

The drawings are objected to under 37 CFR 1.84 (i) and (p) as being informal.

The lines, numbers and letters lack uniformity and are fuzzy lacking sharp definition.

No new matter should be entered.

Replacement drawings are required. The objection to the drawings will not be held in abeyance.

### **Objection to claim informalities**

Claim 36 is objected to because of the following informalities: "includes an affixed to the nose post" is improper English. Appropriate correction is required.

### **Rejections based on Prior Art**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 16, 17 and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lustig et al (US 4,185,384).

Lustig et al. disclose an articulating film (11) having at least one marking surface and forceps (43) mechanically clamped along the edge of the articulating film to form an

articulating film receiver. The forceps are inherently disposable and includes one elongate member folded into two members which abut each other. The tab 20 of the Lustig et al forceps is capable of being attached to a mounting coupling of an articulating film holder. Lustig et al. fail to disclose that the articulating film assembly is packaged. It is conventional and well known in the dental art to package dental articles so that they may be sold to dentists, especially intra-oral articles to protect the patient from contamination. It would have been obvious to one of ordinary skill in the art at the time of the invention to package the articulating film assembly disclosed by Lustig et al. to protect it from contamination when it is sold and delivered to the dentist prior to use.

Regarding claims 19 and 20, the forceps extend to form a holding tab (20) that extends a distance outside the patient's mouth and which could be received by an articulating film holder.

Claims 16 and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lustig (US 4,472,140)

Lustig discloses an articulating film (12) having at least one marking surface and forceps 22.1, 22.1) affixed by adhesive means along one edge of the film to form an articulating film receiver. The forceps are inherently disposable and includes two members folded so that they abut each other. The Lustig device includes a tab 22 capable of being coupled to an articulating film holder. Lustig fails to disclose that the articulating film assembly is packaged. It is extremely well known in the dental art to package dental articles so that they may be sold to dentists, especially intra-oral articles

to protect the patient from contamination. It would have been obvious to one of ordinary skill in the art at the time of the invention to package the articulating film assembly disclosed by Lustig to protect it from contamination when it is sold and delivered to the dentist prior to use.

### **Allowable Subject Matter**

Claims 1-5, 7-11, 13-15 and 28-40 are allowed.

### **Action Made Final**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

This application has been reassigned since examiner Donahoe is no longer with the Office. Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Cris Rodriguez, can be reached at (571) 272-4964.

R.Lewis  
October 16, 2006

  
Ralph A. Lewis  
Primary Examiner  
AU3732